

**City of Augusta, Maine**  
DEPARTMENT OF DEVELOPMENT SERVICES

AUGUSTA STATE AIRPORT  
CODE ENFORCEMENT  
ECONOMIC DEVELOPMENT



ENGINEERING  
FACILITIES & SYSTEMS  
PLANNING

**IN THE MATTER OF:**

**Donald McPherson & Ronald McPherson  
Conditional Use Application  
Findings of Fact and Conclusions of Law**

Pursuant to the provisions of the City of Augusta Land Use Ordinance, the City of Augusta Planning Board has considered the application of Donald McPherson and Ronald McPherson including supportive data, staff review comments, public hearing testimony, and related materials contained in the record. The Planning Board makes the following Findings of Fact and Conclusions of Law.

**Findings of Fact**

1. **Project Description:** The request is for a Conditional Use Review as per Section 6.3. The applicant proposes to operate Clod Busters Garden Center at 3100 North Belfast Avenue. The proposed use is garden center, which is a conditional use.
2. **Owner:** White and Bradstreet Inc. and Lessee: Steven Plourde
3. **Applicant:** Donald McPherson and Ronald McPherson
4. **Location:** 3100 North Belfast Avenue
5. **Zoning:** Rural Village (RV) District  
Limited Commercial (LC) Shoreland Overlay Zone
6. **Tax Map Number:** Map 75, Lot 3A
7. **Existing Land Use:** (most recent) Specialty Retail - Tackle Shop
8. **Acreage:** 1.9 acres
9. On February 1, 2016 the applicant submitted the following:
  - a. Completed Conditional Use Application form
  - b. General Project Information narrative
  - c. Site Plan Review Criteria for Conditional Uses narrative
  - d. Tax Map and Aerial Photo
  - e. Deed
10. On February 26, 2016 the applicant submitted the following:
  - a. Sub-lease agreement
11. On February 22, 2016 and February 27, 2016, the Kennebec Journal published legal advertisements for the public hearing regarding the application.
12. On February 22, 2016, City staff mailed notices to the owners of properties located within 1000 feet of the property regarding the public hearing regarding the application.
13. On March 8, 2016, the Planning Board held a public hearing regarding the application. The Planning Board conducted a detailed review of the material listed in Item 9 and 10 above, the staff review dated March 2, 2016, and considered testimony by the applicant and interested members of the public. No individuals testified at the public hearing and no

written communications regarding the application were received. The Board voted to APPROVE the application with conditions.

## **Conclusions of Law**

In view of the above actions and the application and supporting documentation in the record, the Planning Board makes the following conclusions of law.

### **6.3.4 Site Plan Criteria Applicable for Conditional Uses**

#### **6.3.4.1 Neighborhood compatibility.**

- a.
  - i. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to land uses.
  - ii. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to architectural design.
  - iii. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to scale, bulk, and building height.
  - iv. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to identity and historical character.
  - v. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to disposition and orientation of the buildings.
  - vi. The proposal is compatible with and sensitive to the character of the site and neighborhood relative to visual integrity.
- b. The elements of the site plan are designed and arranged to maximize the opportunity for privacy by the residents of the immediate area.
- c. The proposal will maintain safe and healthful conditions in the neighborhood.
- d. The proposal will not have a significant detrimental effect on the value of adjacent properties.

#### **6.3.4.2 Plans and policies.** The proposal is in accordance with the 2007 Comprehensive Plan.

#### **6.3.4.3 Traffic pattern, flow and volume.**

- a. The proposal is designed so that any additional traffic generated does not have a significant negative impact on the surrounding neighborhood.
- b. Safe access will be assured by providing proper sight distance and minimum width curb cuts for safe entering and exiting.
- c. The proposal provides access for emergency vehicles and for persons attempting to render emergency services.
- d. The entrance and parking system provides for the smooth and convenient movement of vehicles both on and off the site. The proposal satisfies the parking capacity requirements of the city and provides adequate space suited to the loading and unloading of persons, materials, and goods.

6.3.4.4 Public facilities.

- a. The public water utility has adequate capacity for the project.
- b. The public sewer utility has adequate capacity for the project.
- c. The electric and telephone utilities have adequate capacity for the project.
- d. The public stormwater system has adequate capacity for the project.

6.3.4.5 Resource protection and the environment.

- a. There are no known sensitive areas.
- b. The proposal complies with local, state, and federal air quality standards.
- c. The proposal complies with local, state, and federal water quality standards.
- d. Sewage and industrial wastes will be treated and disposed of in such a manner as to comply with local, state, and federal standards.
- e. The portion of the proposal in the shoreland zone remains unchanged.

6.3.4.6 Performance standards.

- a. The proposal complies with all performance and dimensional standards.
- b. The proposed land use can be conducted so that noise generates shall not exceed the performance levels specified in the performance standards.
- c. The proposal does not involve intense glare or heat.
- d. The exterior lighting will be sufficiently obscured to prevent excessive glare on public streets and walkways or into any residential area.
- e. The landscaping screens parking areas, loading areas, trash containers, outside storage areas, blank walls or fences and other areas of low visual interest from roadways, residences, public open space and public view.
- f. All of the signs comply with the Land Use Ordinance.

6.3.4.7 Financial and technical ability.

- a. The applicant has adequate technical ability to meet the terms of the ordinance.
- b. The applicant has adequate financial ability to meet the terms of the ordinance.

THEREFORE, the Planning Board hereby approves, with the following conditions, the application of Donald McPherson and Ronald McPherson for Clod Busters Garden Center as described in the findings above with the following additional finding.

1. The applicant requested eight waivers from the requirements of the ordinance. Given the circumstances outlined in both in the staff review and in the application itself indicating that the applicants are sub-leasing only a portion of a building currently housing another business and since staff has no concerns, these waivers are granted.

**Conditions of Approval**

The following conditions shall be met prior to the Signature of Approval on the Site Plan. No site or building permit shall be issued until these conditions are met. These conditions shall be met within one year of the signing of these Findings of Fact and Conditions of Approval by the Chair of the

Planning Board. If these conditions are not met within one year, the applicant must come before the Planning Board for review of the conditions:

1. Prior to opening for business, the entrance/exit to Route 3 that is located the farthest to the west shall be turned into a one-way entrance. The entrance/exit to Route 3 that is located the farthest to the east shall be turned into a one-way exit. Signs for the one-way entrance and the one-way exit shall be installed.

This Conditional Approval shall expire within eighteen(18) months of the date of approval by the Planning Board, if a permit from the Bureau of Code Enforcement for the site and buildign work is not issued by that date.

  
Justin L. Poirer, Planning Board Chair

3/15/2016  
Date